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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,602	01/18/2001	Jun Hirai	SONYJP 3.0-138	6651
530	7590	01/27/2005	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			COLIN, CARL G	
			ART UNIT	PAPER NUMBER
			2136	

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/764,602	HIRAI, JUN	
	Examiner	Art Unit	
	Carl Colin	2136	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.

- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.

- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 21 October 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 4-6,8,10,11,14-16,18,20 and 53 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 4-6,8,10,11,14-16,18,20 and 53 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on 21 October 2004 is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>see att.</u>	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Response to Arguments

1. In response to communications filed on 10/21/2004, applicant cancels claims 1-3, 7, 9, 12, 13, 17, 19, 21-52. The following claims 4-6, 8, 10, 11, 14-16, 18, 20, and 53 are presented for examination.

2. The amendments to the drawings filed on 10/21/2004 have been considered and the objection has been withdrawn. The 101 rejection of claim 11 has been withdrawn with respect to the amended claims.

2.1 Applicant's remarks, pages 7-9, filed on 10/21/2004, with respect to the rejection of claims 11 and 53 have been fully considered, but and they are persuasive as amended. Upon further consideration a new ground of rejection is made in view of a new reference in combination with Levy et al.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate lines of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of lines (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3.1 **Claims 5, 6, 8, 10, 11, 15-16, 18, 20, and 53** are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,505,160 to **Levy et al.**

3.2 **As per claims 11 and 53, Levy et al.** discloses a distribution method, system and apparatus for distributing content owned by a predetermined right owner, comprising: issuing to distributor identifier that meets the recitation of issuing to the distributor authentication information (see column 5, lines 22-28; column 2, line 60 through column 3, line 10; column 4, lines 1-10) **Levy et al.** discloses that the identifier includes time stamp to allow monitoring of the content that meets the recitation of including time identification information indicating time of issuance (column 12, line 51-65 and column 13, line 15-20) and distributor identification assigned to the distributor, for example (column 3, lines 24-50); distributing the content via a predetermined distribution path with the authentication information attached thereto, for example (see column 5, lines 36-67; column 4, lines 14-33); storing a distribution history for each content distributed via the predetermined distribution path in association with specific content identification information (column 6, lines 2-28); and monitoring the distribution of the content

in the predetermined distribution path to determine a validity of the content distribution based on the time identification information distributed with the content and to determine a distribution status of the distributed content based on the distribution history, for example (see column 3, lines 40-48 and column 14, lines 26-35). (See also column 2, line 61 through line 23).

As per claims 5 and 15, Levy et al discloses the limitation of wherein said distributing step embeds the authentication information into the content using a digital watermarking technique, for example (see column 9, lines 39 and column 8, lines 13-30).

As per claims 6 and 16, Levy et al discloses the limitation of wherein said distributing step embeds the authentication information into a distribution signal of the content using a digital watermarking technique, for example (see column 9, lines 39 and column 8, lines 13-30).

As per claims 8 and 18, Levy et al. discloses the limitation of wherein each content has specific content identification information, said distribution apparatus further comprising: storing a distribution history for each content distributed via the predetermined distribution path in association with its specific content identification information, for example (see column 10, lines 19-67); and extracting only the distribution history associated with specific content by masking the distribution history with a predetermined filter, for example (see column 10, lines 50-67).

As per claims 10 and 20, Levy et al. discloses the limitation of wherein each content has specific content identification information, said distribution apparatus being operable to store a distribution history for each content distributed via said predetermined distribution path association with its specific content identification information (see column 10, lines 19-67), and said monitoring apparatus causes content identification information by which said distribution history can be addressed to be contained in said authentication information, for example (see column 2, line 61 through line 23).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4.1 **Claims 4, 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,505,160 to **Levy et al** in view of US Patent 6,574,609 to **Downs et al**.

4.2 **As per claims 4 and 14, Levy et al** substantially teaches the claimed method and apparatus of claims 11 and 53. **Levy et al** suggests using encryption format and server can provide the software for decrypting, but does not explicitly teach issuing an encryption key, and said distributing step distributes the content with the attached authentication information encrypted using the encryption key. However, **Downs et al** in an analogous art teaches encrypting encrypting both the content and the keys so any other hosting agent cannot directly access the content without permission that meets the recitation of wherein said issuing step further includes issuing an encryption key, and said distributing step distributes the content with the attached authentication information encrypted using the encryption key, for example (see column 10, lines 5-18). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of **Levy et al** to issue keys and distributing the content encrypted with the attached authentication information encrypted using the encryption key as suggested by **Downs et al**. This modification would have been obvious because one skilled in the art would have been motivated by the suggestions provided by **Downs et al** in order to provide more protection to the content, therefore any other computer cannot directly access the content without permission.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5.1 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl Colin whose telephone number is 571-272-3862. The examiner can normally be reached on Monday through Thursday, 8:00-6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

cc

Carl Colin
Patent Examiner
January 24, 2005

G. Morse
GREGORY MORSE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100